

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR NO. 2:05-cr-119-F
v.)	
)	
DON EUGENE SIEGELMAN, et al)	
)	
Defendant.)	

**MOTION OF GOVERNOR SIEGELMAN
FOR ENHANCED JURY-SELECTION PROCEDURES¹**

Governor Don Siegelman hereby respectfully moves for enhanced jury selection procedures. Governor Siegelman requests (a) that the Court use expanded jury questionnaires sent by mail to panel members in advance of jury selection (a step that Governor Siegelman understands that the Court has indicated that it intends to take); (b) that panel members not be instructed, in the questionnaire or in voir dire, on such matters as the presumption of innocence, impartiality, basing their verdict on the evidence, and similar things (so that panel members will not thereby be induced to give the answers that they think that they are “supposed” to give); (c) that the Court allow counsel to conduct the voir dire, in part (so that counsel can elicit more information that will allow more informed challenges); (d) that the Court, when conducting voir dire, use open-ended questions (again in order to elicit more meaningful information from panel members); (e) that individual and sequestered voir dire be utilized for follow-up questions (in order to

¹ This document is being re-filed due to a deficiency in the certificate of service in the original filing.

foster more comfort and candor on the part of panel members, thus yielding more information; and (f) that the Court allow each defendant a reasonable number of additional peremptory challenges.

These measures are appropriate in order to improve the fairness of jury selection in this unusual case. This case is far out of the ordinary. It has received, and will receive, an extraordinary amount of pre-trial publicity which will affect how some potential jurors approach the case. Two of the defendants – Governor Siegelman and Richard Scrushy – are extremely well-known in the State of Alabama; many potential jurors will come to court with strong opinions about one or both of them. A large number of jury-eligible people have very negative opinions about Mr. Scrushy in light of the Healthsouth accounting fraud scandal; and a large number of jury-eligible people believe that his acquittal on earlier charges was inappropriate. While many people in the jury-eligible population hold Governor Siegelman in high regard, there are some who have negative opinions about him based on political differences, and some who believe that he should have been convicted on earlier charges as well. In addition, Governor Siegelman is currently running for Governor again, and this leads to even more media attention and public attention. (We submit that each of the factual statements above is so obvious that it is properly the subject of judicial notice; but if the Court has any doubt about the correctness of these statements, we will submit evidence to support them as needed.). Thus it is practically certain that some members of the jury pool will have opinions – whether they are consciously aware of them, or not – that would interfere with Governor Siegelman's ability to receive a fair trial. For this reason, jury selection procedures

should be more searching than in the ordinary case, and the procedures requested above are appropriate.

Respectfully submitted this _____ day of February 2006.

Respectfully submitted,

/s/ G. Douglas Jones
G. Douglas Jones

OF COUNSEL:

WHATLEY DRAKE, LLC
2323 2nd Avenue North
Birmingham, AL 35203
Phone: (205) 328-9576
Fax: (205) 328-9669

Charles Redding Pitt
John D. Saxon, PC
2119 Third Avenue North
Birmingham, AL 35203
(205) 324-0223
Fax: 205-323-1583

David Allen McDonald
Kilborn, Roebuck & McDonald
203 South Warren Street
Post Office Box 832
Mobile, AL 36602
251-434-0045
Fax: 251-434-0047

Vincent F. Kilborn, III
Kilborn, Roebuck & McDonald
1810 Old Government Street
P. O. Box 66710
Mobile, AL 36606
(334) 479-9010
Fax: 251-479-6747

CERTIFICATE OF SERVICE

I hereby certify that on the day of February, 2006, I electronically filed the foregoing "Motion for Governor Siegelman for Enhanced Jury-Selection Procedures" with the Clerk of the Court using the CM/ECF system which will send notification of such to counsel of record .

/s/ G. Douglas Jones
OF COUNSEL